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UNCLAS SANTO DOMINGO 000559

SIPDIS

STATE FOR EB - AADAMO
WHITE HOUSE PASS USTR FOR MALITO, PECK, SOUDER, VARGO

E.O. 12958: N/A

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SUBJECT: DOMINICANS RESPOND TO TELEVISION BROADCAST PIRACY
DEMARCHÉ WITH NEW DOCUMENTS ON EFFORTS TO STOP THE PROBLEM

REF: (A) STATE 17131 (B) SANTO DOMINGO 6415

1. Summary: During the Embassy's January 31 demarche on television broadcast piracy (ref a), Under Secretary of Industry and Commerce Marcelo Puello told DCM that his Ministry took the requirement of stopping television broadcast piracy seriously and had sent the report to USTR on January 7 without informing the Embassy. The CAFTA-required report on television broadcast piracy had been assigned to the general director of ONAPI (National Office of Industrial Property) Enrique Ramirez. After the meeting we received a copy of the report which shows that the government is taking new steps to monitor illegal broadcasts. It fails to mention the recent favorable outcome of a long-running television broadcast piracy case against major Dominican station Telemicro. The Ambassador delivered the demarche separately to President Fernandez and Foreign Minister Morales Troncoso, who assured that they would study the issue. End summary.

2. During the January 31 demarche on television broadcast piracy (ref a), Under Secretary of Industry and Commerce Marcelo Puello and his Director for Commercial Treaties, Hugo Rivera Santana, told the DCM that in December the Secretary for Industry and Commerce had assigned the task of preparing the report on television broadcast piracy to the general director of ONAPI (National Office of Industrial Property) Enrique Ramirez. The officials said that the Dominican Government considered the CAFTA agreement as binding from the day it was signed in August 2004. The government takes very seriously the side letter to CAFTA which commits the Dominicans to stop broadcast piracy and to regularly report about their efforts to do so. The original Dominican plan was for the National Office for Copyright Protection (ONDA) to prepare the report, but ONDA failed to complete the task (ref b). The Embassy had pushed ONDA for the report without any results. The Embassy had also addressed the reporting requirement with Under Secretary Puello, the Foreign Ministry, the Attorney General's office and other government agencies involved with the issue. This was the first notice of the Dominicans' reassignment of responsibilities.

3. Puello said that FedEx had delivered the ONAPI report to USTR on January 7. Ecopol received a copy for the first time on February 1. After reviewing the documents, we can understand why they might have been overlooked after arriving at USTR. The report is a compilation of Spanish language documents with no cover identifying them as the required broadcast piracy report.

4. The documents show that in December the Secretary of Industry and Commerce took control of the reporting issue and formally assigned to ONAPI the task of preparing the broadcast piracy report. ONAPI approached agencies involved in the effort against piracy to assess actions and then reported back to the Secretary of Industry and Commerce. ONAPI documents the fact that in November the Santo Domingo's District Attorney's Office obtained a court order to monitor and document broadcasts by Telemicro and Canal del Sol, two large scale offenders. Both stations are known by the Embassy to have continued making illegal broadcasts. The information collected from monitoring should be of use in future prosecutions.

5. An important item not reported in the documents forwarded to USTR is the October 22, 2004, conviction of Channel 5 (Telemicro) for broadcast piracy in a combined civil and criminal case filed in April 2002. The court ordered Telemicro to pay a total of RD\$415,000 (about US\$14,000) to Twentieth Century Fox, Tristar Pictures, Columbia Pictures and Warner Brothers. The court sentenced Telemicro's manager to three months in prison. Jaime Angeles, the MPAA's Santo Domingo representative, appealed the judge's refusal to take Telemicro off the air.

6. The Ambassador raised the piracy issue with Foreign Minister Morales Troncoso on January 31 and with President Fernandez on February 2. The Ambassador stressed the urgency for the Dominican Government to act with firmness to stop the long running problem. The Ambassador reminded President Fernandez that his public proposal to bolster the film industry would not succeed unless IPR protections for films are strengthened.

